

Amendments to the Drawings:

The attached sheet of drawings removes the German-language heading and has been amended to include the English-language heading "Figure 1". This sheet, which includes Fig. 1, replaces the original sheet including Fig. 1.

Attachment: Replacement Sheet

REMARKS/ARGUMENTS

As a result of this Amendment, claims 1-22 are under active consideration in the subject patent application.

In the Official Action, the Examiner has:

(1) objected to the Oath or Declaration as defective because it is in a non-English language;

(2) objected to the disclosure as lacking headings;

(3) objected to the drawings because headings appear in a non-English language;

(4) rejected Claims 1-20 under 35 U.S.C. §112, second paragraph;

(5) rejected Claims 1-3, 6-12 and 18-20 under 35 U.S.C. §102(b) as allegedly being anticipated by German patent document DE 295 12 609 (DE '609);

(6) rejected Claims 1-3, 6-9, 13, 18 and 19 under 35 U.S.C. §102(b) as allegedly being anticipated by Dutch patent document 8402362 (NL '362);

(7) rejected Claims 1, 2, 8-10, 13-18 and 20 under 35 U.S.C. §102(b) as allegedly being anticipated by Smith (U.S. Patent No. 2,083,621); and

(8) rejected Claims 1, 2, 4, 5, 8, 18 and 19 under 35 U.S.C. §102(b) as allegedly being anticipated by Peckels (U.S. Patent No. 5,057,411).

With regard to Item 1, an English-language Declaration executed by the inventor is being filed concurrently with this Response. Applicant requests entry of the English-language Declaration into the application.

With regard to Item 2, a substitute Specification is attached with this Response which is in compliance with MPEP 608.01(a) and inserts the proper section headings

into the application. Applicant requests entry of the substitute Specification into the application.

With regard to Item 3, a corrected drawing sheet is also attached to this response that is in compliance with 37 CFR 1.121(d). Applicant requests entry of the corrected drawing sheet into the application.

With regard to Item 4, Applicant has amended the claims in order to overcome the various rejections under 35 U.S.C. §112, second paragraph, and so as to better distinguish the subject of the present invention from the prior art relied upon by the Examiner. No new matter is believed to have been entered into the application as a result of these changes to the claims. Reconsideration and withdrawal of the rejections under 35 U.S.C. §112, second paragraph, are respectfully requested.

With regard to Item 5, Applicant respectfully traverses the Examiner's reliance upon German Gebrauchsmuster DE '609, and requests reconsideration for the following reasons. Firstly, DE '609 provides a garbage container and Applicant's device provides a barrier arranged at a drinks dispenser. Needless to say that civilized humans rarely, if ever, fill garbage containers with ice for consumption! Although, they might throw empty bottles into those garbage containers. Applicant's invention is a drinks dispenser provided for the purpose of dispensing drinks to humans, and not to keep garbage cans or partly used bottles, which still hold some liquid. The claimed reservoir is for the drinks and the cover above the drink covers the drinks supply.

Anticipation under 35 U.S.C. §102 requires that each and every element of the invention defined in the claim be met in a single prior art reference. Those elements must either be inherent or disclosed expressly, and must be arranged as described in the claim. See, Diversitech Corporation v. Century Steps, Inc., 850 F.2d 675, 7

U.S.P.Q.2d 1315 (Fed. Circuit 1988), Constant v. Advanced Micro-Devices, Inc., 848 F.2d 1560, 7 U.S.P.Q.2d 1057 (Fed. Circuit 1988), and Richardson v. Suzuki Motor Company, 868 F.2d 1226, 9 U.S.P.Q.2d 913 (Fed. Circuit 1989). The DE '609 reference utterly fails to disclose a barrier arrangement arranged at a reaching-over portion of a cover, that includes a barrier device displaceably supported relative to a portion that is reaching over; such that the barrier device is inhibited in its displaceability relative to the reaching-over portion by a blocking device while the blocking device is in a locking portion. Furthermore, Applicant's reaching over portion incorporates a displaceably supporting barrier device. Nothing in Figures 1 or 2 of the DE '609 reference is displaceably supported on a reaching over portion. A copy of an English translation of the DE '609 reference is enclosed for the convenience of the Examiner.

These distinctions are quite important, for they reflect significant differences in both construction and function between Applicant's claimed invention and the device taught in DE '609. More particularly, Unlike Applicant's invention, DE '609 provides a cover (2) and the reaching over portion of this cover actually hold a locking mechanism (4) which is an arm that cannot be moved relative to the reaching over portion. The opposite portion of this locking mechanism (DE '609 translation at page 3, bottom paragraph and page 4, top paragraph) is attached to the container (1). This refers to the locking mechanism (7) the key (6) the spring (8) and the weight (9) which define an opening means. This opening means is mounted on the container side but, not on the side of the lid (2). The effect of this structure is that the DE '609 locking device (3) has a portion that is attached to the lid, and this portion is the locking means (4) as an "downward directed" arm with no displaceability and no supporting means that supports a displaceable movement of this device. The opposed devices for this locking device is

a counter-locking device (5) and this one might be displaceable, but is not attached to the lid.

When moving this locking device (5) horizontally, an authorized person can open the lid thus freeing the lock arm (4) and is moved by turning movement together with the lid (see, translation at page 3, penultimate paragraph). When no key is present, but the container is empty (after the garden party) the drop weight will move plate (5) in left direction by the slanted edge (13) gripping into the counter-slanted edge (12). These beveled areas, (see translation at page 4, bottom paragraph, the last six lines) are an alternative action to open the lid from its locking position. There is simply no disclosure or even a vague suggestion of Applicant's barrier arrangement arranged at a reaching-over portion of a cover, that includes a barrier device displaceably supported relative to a portion that is reaching over; such that the barrier device is inhibited in its displaceability relative to the reaching-over portion by a blocking device while the blocking device is in a locking portion. The barrier device DE '609 is not displaceably supported with respect to the reaching over portion. There is no locking device that inhibits this displacing of the barrier device on the cover.

Accordingly, the rejection of claims 1-3, 6-12, and 18-22, under 35 U.S.C. §102 in view of the DE '609 reference should be withdrawn. Reconsideration is requested.

With regard to Item 6, Applicant respectfully traverses the Examiner's reliance upon the NL '362 reference, and requests reconsideration for the following reasons. A copy of an English translation of the NL '362 reference is enclosed for the convenience of the Examiner. NL '362 provides a reservoir that canned or bottled drinks, thrown into the bin, which is called a container. However, cover (2) in the NL '362 reference does not have a reaching over portion that reaches over a reservoir so as to keep the drinks

supply to be dispensed from the dispenser. NL '362's cover (2) (figure 3 in cross-section) ends with a screw and a handle (7) and is seated on a rubber portion (10). Applicant respectfully submits that this structure does not reach over the upper end of bottom portion (1) of the container.

Also, unlike Applicant's invention, NL '362 fails to provide a barrier device that is displaceably supported relative to the reaching over portion. There is simply nothing disclosed by the NL '362 reference that supports a displacing, a support, or some sort of a bearing that concerns the handle (7) or the downward extending portion, which is called latches (17) in figure 2 of the NL '362. Instead, it is locked by the key in figure 4 and can be freed by turning the key. The operating component 16 can unlock the latching component (see English translation of NL '362, page 2, the bottom two paragraphs). It is then removed from the locked position, but no structure is displaceably supported and no blocking device inhibits the displacing of a barrier device. All that can be seen is a turning movement and an unlatching of the leg (15, 21, in Figure 4 of the NL '362 reference).

Accordingly, the rejection of claims 1-3, 6-9, 13, 18, and 19, under 35 U.S.C. §102 in view of the NL '362 reference should be withdrawn. Reconsideration is requested.

With regard to Item 7, Applicant respectfully traverses the Examiner's reliance upon the Smith reference (US '621), and requests reconsideration for the following reasons. Unlike Smith's reaching over portion latch mechanism (including a tongue (18) see page 2, lines 48 to 55). Applicant's barrier device is displaceably supported with respect the reaching over portion. Unlike Applicant's invention, Smith's tongue (18) is fixed at this reaching over portion, and can only be moved together with it (See, the

movement representation in figure 4 towards figure 3 of Smith). Smith's fastener member (B) which includes the tongue is secured to the flange of the cover (15) upon the inner surface thereof (See column 2, lines 37 to 40, of Smith). No relative movement can be had with this structure, only a movement of a cover with the reaching over portion (16) together with the fastening member (B) including tongue (18).

The Examiner has mistakenly identified Smith's tongue (18) to be displaceable with respect to the reaching over portion (16) by radially bending it towards and away. This is, in point of fact, a radial elastic movement of tongue (18), which is not defined by Applicant's claims alone. Instead, Applicant relies upon a barrier device that is displaceably supported and displaceable relative to the reaching over portion. No displaceably supporting is the secure attachment of Smith's tongue(18) with respect to the reaching over portion (16). Functionally, adding the blocking device of our claim that inhibits this displacing movement, cannot be compared with item (25) of Smith that is forming the eye (17). Smith's eye bends the tongue in radial direction. it does not inhibit a displacement. When looking at Smith's abutment (34) which is in a locked position inhibiting a radial turning of the whole cover, the direction that is inhibited is perpendicular to the direction suggested by the examiner for the displaceability of the assumed barrier device. One cannot mix the displacing of Applicant's cover having a portion reaching over an edge portion of the reservoir in the closed state of the cover, on the one hand, and a direction orthogonal thereto in figures 4 and 3 of Smith on the other hand. This is particularly true when one considers the functional relationship of inhibiting the same displacement that is given by the displaceably supporting relative to a portion that is reaching over; such that the barrier device is inhibited in its

displaceability relative to the reaching-over portion by a blocking device while the blocking device is in a locking portion.

Accordingly, the rejection of claims 1, 2, 8-10, 3-18, and 20, under 35 U.S.C. §102 in view of the Smith reference should be withdrawn. Reconsideration is requested.

With regard to Item 8, Applicant respectfully traverses the Examiner's reliance upon the Peckels reference (U.S. '411), and requests reconsideration for the following reasons. The Examiner appears to suggest that the Peckels reference has a cover (figure 10 where the arrow (10) points to the bottles (14) that have a cover 12A to 12F) that is above the reservoir which is the drinks bottle. However, the Examiner appears to be pointing out two figures 5 and 2 which are different embodiments of Peckels. Figure 5 has a reaching over portion (16B) while Figure 2 has a reaching over portion (48A). However, portion (48A) does not appear to have a barrier device which the Examiner identified as sphere (90) (See, column 10, lines 30 to 35, to preferable a ball, mainly a valve 90). The valve 90 is not present in figure 2 yet valve 90 is shown in figure 5 but, unlike Applicant's claimed invention, is not placed in the reaching over portion that is sideways in figure 1 of the instant application. It is respectfully submitted that what the Examiner may not apply the Peckels reference piecemeal to Applicant's invention. Moreover, nowhere within the four corners of Peckels is there a teaching or even a vague suggestion of a barrier arrangement arranged at a reaching-over portion of a cover, that includes a barrier device displaceably supported relative to a portion that is reaching over; such that the barrier device is inhibited in its displaceability relative to the reaching-over portion by a blocking device while the blocking device is in a locking portion. Applicant's blocking device (40) inhibits the movement (the displacement) of

the barrier device. The Examiner appears to be comparing Applicant's blocking device (40) with the "barrier device (90)" in Peckels, which is the valve or the ball in figure 5. This ball is turned upside down and it is falling along the arrow 80 in the valve chamber. Nothing inhibits its movement in a bearing that is identified by the technical term "a barrier device that is displaceably supported".

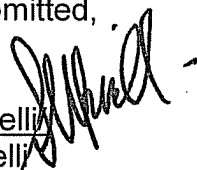
Accordingly, the rejection of claims 11, 2, 4, 5, 8, 18, and 19, under 35 U.S.C. §102 in view of the Peckels reference should be withdrawn. Reconsideration is requested.

In view of the foregoing, Applicant respectfully submit that claims 1-22 are in condition for allowance. Favorable reconsideration is therefore respectfully requested. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

If a telephone conference would be of assistance in advancing prosecution of the above-identified application, Applicant's undersigned Attorney invites the Examiner to telephone him at **215-979-1255**.

Respectfully Submitted,

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